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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,182	05/01/2001	Stephen G. Baker	D5154	5097

30409 7590 06/04/2003

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EXAMINER

WYROZESKI LEE, KATARZYNA I

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 06/04/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/847,182

Applicant(s)

BAKER ET AL.

Examiner

Katarzyna Wyrozebski Lee

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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In view of applicant's response and the declaration submitted by Stephen G. Baker following final office action has been necessitated. All rejections over the prior art of record are hereby overcome.

***Claim Rejections - 35 USC § 112***

Rejection of claim 1 is not overcome. Although the applicant has removed limitation "at least about", limitation "less than about" (line 1) is still part of the claim.

Claim 13 still contains limitation "less than about" therefore the rejection is not overcome.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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3. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brander (US 5,911,269) in view of Brander (US 4,735,973).

The discussion of the disclosure of the prior art of Brander'269 and Brander'973 from paragraph 10 of the previous office action is incorporated here by reference.

In the response to the office action, the applicants have argued following"

a) The prior art of Brander discloses composition comprising alpha-spumene and  $\text{Fe}_3\text{O}_4$ , which is black iron oxide and that there is no reference in Brander of using  $\text{Fe}_2\text{O}_3$ .

With respect to the above argument, the examiner disagrees. It is true that the examples of the prior art of Brander disclose Veinseal comprising Lithia-containing component and  $\text{Fe}_3\text{O}_4$ , however the disclosure of the prior of Brander can not be only limited to the examples. In fact, Table 1 discloses presence of  $\text{Fe}_2\text{O}_3$ . In addition, secondary reference, also of Brander discloses that the preferred additive to the foundry molds contain metal oxides, wherein one of those oxides can be either  $\text{Fe}_2\text{O}_3$  or  $\text{Fe}_3\text{O}_4$  (col. 3). These two components appear to be equivalent, since the veining seems to depend on the particle size of the iron oxide (col. 4, lines 25-35 of '973). Therefore, since both prior art disclosures teach compositions that would reduce veining in foundry molds, combination of such prior art is proper.

b) The prior art of Brander discloses that the addition of iron oxide has limited success of reducing veining.

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With respect to the col. 1, line 50-51 to which applicant referred to, the prior art of Brander discusses additives such as dextrin, fine ground glass, red talc and so on. The prior art of Brander does not say that the use of any iron oxide has limited effect on reducing veining. Therefore the prior art of Brander does not teach away from using iron oxides.

It is further examiner's opinion that the applicants have not fully addressed the combination rejection, which has been stated in the paragraph 10 of the office action mailed on 11/8/2003. Therefore the *prima facie* obviousness has been established. Also, copy of MSDS sheet for Vainseal 1400 was not legible at all. The examiner requests that the applicants provide legible copy for considerations.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katarzyna Wyrozebski Lee whose telephone number is (703) 306-5875. The examiner can normally be reached on Mon-Thurs 6:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
KIWL

May 27, 2003

EDWARD J. CAIN  
PRIMARY EXAMINER  
GROUP 1500  
